

AMENDED IN ASSEMBLY JUNE 15, 2012

AMENDED IN SENATE MAY 17, 2012

AMENDED IN SENATE MAY 1, 2012

AMENDED IN SENATE APRIL 18, 2012

**SENATE BILL**

**No. 1468**

---

---

**Introduced by Senator Calderon**

February 24, 2012

---

---

An act to add and repeal Sections 12599.4, 12599.5, and 12635.5 of the Health and Safety Code, relating to fireworks, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1468, as amended, Calderon. Fireworks.

Existing law authorizes the retail sale of safe and sane fireworks from June 28 to July 6, annually, pursuant to a license issued by the State Fire Marshal, unless otherwise prohibited or regulated by law or ordinance.

This bill would express the Legislature's intent, for purposes of determining whether the Legislature should continue to allow safe and sane fireworks for the period immediately before each New Year's Eve, to conduct an enhanced fireworks data collection study in a limited number of jurisdictions. The bill would further declare the Legislature's intent that the cost of the Fireworks Special Data Collection Program be totally funded by voluntary contributions, as specified. The bill would require the State Fire Marshal, on or before December 1, 2013, ~~and on or before December 1, 1 in 2013 and 2014~~, in consultation with the State Fire Marshal's *General* Fireworks Advisory Committee, to determine an appropriate sum that does not exceed the amount

reasonably necessary for ~~fireworks special data collection~~ *Fireworks Special Data Collection Program* activities for targeted jurisdictions and the state for the following year. The bill would require the funding for these activities, from voluntary contributions from the fireworks industry or from federal or private grants, to be collected by the State Fire Marshal for deposit in the Fireworks Special Data Collection Fund, which the bill would create as a continuously appropriated special fund in the State Treasury. Moneys in the fund would be available for actual reasonable costs incurred by the State Fire Marshal and local, participating jurisdictions to develop, implement, analyze, and report the ~~enhanced fireworks special data collection program~~ *results of the Fireworks Special Data Collection Program* and for administrative expenses. By creating a new continuously appropriated special fund, the bill would make an appropriation.

This bill would further authorize, ~~until January 2, 2016, in 2014 and 2015, the sale of certified safe and sane fireworks from 9 a.m. on December 26 of 2014 and 2015 to midnight of~~ *to 11:59 p.m. on January 1 of the following year pursuant to a license issued by the State Fire Marshal, if authorized by a charter city, city, county, fire protection district, or city and county ordinance or resolution that may also restrict the hours of use of those fireworks. Since a violation of this provision or other existing related provisions in connection with the sale of those fireworks would be a misdemeanor, the bill would impose a state-mandated local program by creating new crimes.*

The bill would also authorize, ~~until January 2, 2016, a charter city, city, county, fire protection district, or city and county that adopts an ordinance or resolution authorizing the sale of safe and sane fireworks to require each applicant receiving a permit to pay a fee to the charter city, city, county, fire protection district, or city and county of a pro rata portion of the actual and reasonable costs incurred, on or before January 2, 2016, by the charter city, city, county, fire protection district, or city and county for, among other things, processing and issuing fireworks permits, inspection of fireworks stands, public awareness and education campaigns regarding the safe and responsible use of safe and sane fireworks, and related fire operation and suppression efforts, as specified. The bill would specify that the pro rata portion of those costs shall be based on a percentage of the permittee's sales and use tax return for the applicable permit period, not to exceed 7% of the gross sales of the fireworks sold in the charter city, city, county, fire protection district, or city and county, except that a cost recovery ordinance or resolution~~

*in effect on or before June 30, 2012, would be authorized to supersede that provision.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature hereby finds and declares all of  
2 the following:

3 (a) Existing law, Section 13110.5 of the Health and Safety Code,  
4 requires the State Fire Marshal to gather statistical information on  
5 all fires, medical aid incidents, and hazardous materials incidents  
6 occurring within this state, including, but not limited to, those  
7 related to all types of pyrotechnic devices such as illegal fireworks,  
8 safe and sane fireworks, unknown fireworks, and public display  
9 fireworks.

10 (b) Existing law further requires the chief fire official of each  
11 fire department operated by the state, a city, *county*, city and  
12 county, fire protection district, organized fire company, or other  
13 public or private entity that provides fire protection, to furnish  
14 information and data to the State Fire Marshal relating to each fire  
15 that occurs within his or her area of jurisdiction.

16 (c) The State Fire Marshal regularly appoints and maintains a  
17 *General* Fireworks Advisory Committee, consisting of  
18 representatives of local fire and law enforcement agencies and the  
19 fireworks industry, who meet regularly, at their own expense, and  
20 provide a state-level forum for addressing issues related to  
21 pyrotechnic products and activities in California.

22 (d) For purposes of the continued regulation of all pyrotechnic  
23 devices in California and, more specifically, for purposes of  
24 determining whether the Legislature should continue to allow,  
25 after January 2, 2016, the sale and use of safe and sane fireworks  
26 for the period immediately before each New Year's Eve, it is  
27 hereby determined that an enhanced fireworks data collection  
28 study, in a limited number of jurisdictions, is needed to assist the

Legislature in determining if it should extend the rights and privileges conveyed by this act beyond January 2, 2016.

(e) It is further the intent of the Legislature that the annual ~~wholesaler~~ cost of the Fireworks Special Data Collection Program established by this act shall be totally funded by voluntary contributions from the fireworks industry or federal or private grants.

SEC. 2. Section 12599.4 is added to the Health and Safety Code, to read:

~~12599.4. (a) On~~

*12599.4. (a) There is hereby established the Fireworks Special Data Collection Program, as described in subdivision (e).*

~~(b) In 2013 and 2014 on or before December 1, 2013, and on or before December 1, 2014,~~ the State Fire Marshal shall, pursuant to his or her regulatory authority, and in consultation with the State Fire Marshal's *General* Fireworks Advisory Committee, which consists of representatives from local fire and law enforcement agencies and the fireworks industry, determine an appropriate sum that does not exceed the amount reasonably necessary for the ~~fireworks special data collection~~ *Fireworks Special Data Collection Program* activities for the targeted jurisdictions and the state for the following year.

~~(b)~~

(c) The moneys collected by the State Fire Marshal pursuant to this section shall be deposited in the Fireworks Special Data Collection Fund, which is hereby established as a special fund in the State Treasury, separate and apart from all other public money or funds of this state. Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated to the State Fire Marshal for the study and the actual reasonable costs incurred by the State Fire Marshal and the local, participating jurisdictions to develop, implement, analyze, and report the ~~enhanced fireworks special data collection program~~ *results of the Fireworks Special Data Collection Program*, as described in subdivision ~~(d)~~ (e). Moneys in the fund shall not be used for any other purpose.

~~(e)~~

(d) The Fireworks Special Data Collection Fund may receive funding from any of the following sources:

(1) Voluntary contributions from the fireworks industry.

1 (2) Federal or private grants.

2 ~~(d)~~

3 (e) In addition to the obligations described in Section 13110.5,  
4 on or before November 1, 2013, the State Fire Marshal's Fireworks  
5 *Marshal and the General Fireworks Advisory Committee shall*  
6 *may* review, revise, and approve a plan developed ~~by~~ *in conjunction*  
7 *with one or more representatives of* the fireworks industry to collect  
8 and analyze data relating to the sale of fireworks and related fire,  
9 injury, and disposal issues.

10 (1) The plan shall contain, but not be limited to, a sample design  
11 and selection method to accurately capture a *representative* data  
12 set to be used for statistical analysis relating to fires, damages,  
13 seizures, arrests, administrative citations, and fireworks disposal  
14 issues caused by dangerous fireworks and safe and sane fireworks  
15 for the ~~period~~ *periods* surrounding both the 4th of July and New  
16 Year's Eve.

17 (2) The data set shall be verified by a university or other  
18 nationally recognized independent survey design expert *selected*  
19 *by one or more representatives of the fireworks industry and*  
20 *approved by the State Fire Marshal.* This plan for data collection  
21 shall attempt to collect the requisite data ~~not only~~ in the target  
22 communities, ~~but also~~ *and* in those communities immediately  
23 adjoining or contiguous to the target communities.

24 ~~(e) The~~

25 (f) *In 2014 and 2015, the* sale of safe and sane fireworks for the  
26 period of 9 a.m. on December 26 ~~of 2014 and 2015 to midnight~~  
27 ~~of to 11:59 p.m. on~~ January 1 of the following year, inclusive, shall  
28 only be permitted if, by December 31 of the previous year, the  
29 State Fire Marshal, in consultation with the State Fire Marshal's  
30 *General Fireworks Advisory Committee,* determines that there are  
31 sufficient funds within the Fireworks Special Data Collection Fund  
32 to cover the actual and reasonable costs for that year associated  
33 with the ~~special data collection program~~ *Fireworks Special Data*  
34 *Collection Program* established by this section.

35 ~~(f) This section shall remain in effect only until January 15,~~  
36 ~~2016, and as of that date is repealed, unless a later enacted statute,~~  
37 ~~that is enacted before January 15, 2018, deletes or extends that~~  
38 ~~date.~~

39 (g) *This section shall become inoperative on January 15, 2016,*  
40 *and, as of January 1, 2017, is repealed, unless a later enacted*

1 *statute, that becomes operative on or before January 1, 2017,*  
2 *deletes or extends the dates on which it becomes inoperative and*  
3 *is repealed.*

4 SEC. 3. Section 12599.5 is added to the Health and Safety  
5 Code, to read:

6 12599.5. (a) Notwithstanding Sections 12599 and 12672, in  
7 2014 and 2015 the State Fire Marshal shall issue separate one-time  
8 retail licenses pursuant to this section that shall authorize the retail  
9 sale of safe and sane fireworks within this state only from 9 a.m.  
10 on December 26 of 2014 and 2015 to midnight of to 11:59 p.m.  
11 on January 1 of the following year, inclusive. A license issued  
12 pursuant to this section shall be valid for only one seven-day period  
13 and shall expire at the end of the period for which it is valid. All  
14 fireworks sold pursuant to a license issued pursuant to this section  
15 shall have been certified as safe and sane by the State Fire Marshal  
16 as of June of on or before June 15 the year in which the validity  
17 of the license commences. No other license issued pursuant to this  
18 chapter shall authorize the sale of fireworks during that period.

19 (b) No retail license shall be issued for the license period  
20 authorized by this section unless the charter city, city, county, fire  
21 district, or city and county having jurisdiction over the fixed  
22 location where the fireworks would be sold adopts an ordinance  
23 or resolution allowing that sale, and the application for that license  
24 is received by the State Fire Marshal on or before December 15  
25 of the year in which the validity of the license is to commence.  
26 The ordinance or resolution authorizing the sale of those fireworks  
27 may limit the period of use of those fireworks to specified days  
28 and hours within the period during which the sale is authorized by  
29 this section.

30 ~~(e) This section shall become inoperative on January 2, 2016,~~  
31 ~~and, as of January 2, 2016, is repealed, unless a later enacted~~  
32 ~~statute, that is enacted before January 2, 2016, deletes or extends~~  
33 ~~the dates on which it becomes inoperative and is repealed.~~

34 (c) *This section shall become inoperative on January 2, 2016,*  
35 *and, as of January 1, 2017, is repealed, unless a later enacted*  
36 *statute, that becomes operative on or before January 1, 2017,*  
37 *deletes or extends the dates on which it becomes inoperative and*  
38 *is repealed.*

39 SEC. 4. Section 12635.5 is added to the Health and Safety  
40 Code, to read:

12635.5. (a) A charter city, city, county, fire *protection* district, or city and county that adopts an ordinance or resolution pursuant to Section 12599 or 12599.5 may, through adoption of an ordinance or resolution by the governing body, require each applicant receiving a permit to pay a fee to the charter city, city, county, fire district, or city and county of a pro rata portion of the *actual and reasonable* costs the charter city, city, county, fire *protection* district, or city and county incurs *on or before January 2, 2016*, related to any of the following:

- (1) Processing and issuing permits.
- (2) Inspection of fireworks stands.
- (3) Public education and awareness campaigns regarding the safe and responsible use of safe and sane fireworks, and the dangers and risks posed by the use of illegal fireworks.
- (4) Enforcing the provisions of the code of the charter city, city, county, fire *protection* district, or city and county with respect to the sale and use of safe and sane fireworks, including extra personnel time, and cleanup of the fireworks trash and debris. “Extra personnel time” ~~shall be defined as~~ *means* employee or contracted employee time that the charter city, city, county, fire *protection* district, or city and county would not otherwise incur but for the sale and use of safe and sane fireworks.

(5) Fire operation and suppression efforts that are directly related to safe and sane fireworks.

(b) The pro rata share of the costs shall be ~~determined~~ *specified in the ordinance or resolution and calculated* using gross sales as shown on each permittee’s sales and use tax return for the applicable period. The pro rata share of costs shall not exceed 7 percent of the gross sales of the fireworks sold in the charter city, city, county, fire *protection* district, or city and county during the applicable period. *A cost recovery ordinance or resolution in effect on or before June 30, 2012, may supersede this subdivision.*

~~(c) This section shall remain in effect only until January 2, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 2, 2016, deletes or extends that date.~~

*(c) This section shall become inoperative on July 2, 2016, and, as of January 1, 2017, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed.*

1 SEC. 5. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

O